

Approved as Submitted: September 3, 2003

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – AUGUST 20, 2003**

CALL TO ORDER

Mayor/Chairperson Kennedy called the special meeting to order at 5:03 p.m.

ROLL CALL ATTENDANCE

Present: Mayor/Agency Chairperson Kennedy; Council/Agency Members Carr and Sellers,
Late Arrivals: Vice Chairperson Chang (5:35 p.m.) and Council/Agency Member Tate (5:09 p.m.).

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

Redevelopment Agency Action

WORKSHOP:

1. SANTA CLARA COUNTY COURTHOUSE PROJECT

Business Assistance and Housing Director Toy explained that this is a follow up workshop scheduled as a result of previous comments made by Council. Santa Clara County personnel and consultants from RossDrulisCusenbery Architecture, Inc. took Council's comments and worked them into design elements for the Courthouse and the Justice Agency building.

Mayor Kennedy thought the County would do a Power Point presentation; however they instead brought material boards, computer renderings and models. Their intention was not to make a presentation; but to have informal discussions with Council while walking around the models.

Charles Drulis, RossDrulisCusenbery Architecture, Inc., gave a brief presentation and went through the value engineering process, discussed the revisions as shown in the model and brought computer renderings which show the suggested changes. The stone and plaster have been removed providing a continuity of materials. In addition, the roof height has been raised. Mr. Drulis commented that the continuity of buildings is now more visually distinct. They have also developed the Butterfield pedestrian walkway, moved the east/west walkway, linked into other pathways and identified two connector nodes the City is developing the adjacent property. Keeping trees further enhances the experience, as the firm wished to maintain the orchard feel, even though they exceed City guidelines. The computer aided drawings show additional landscaping, including views of the corner of the building. This is done with the intention of breaking down the massing of the buildings.

Mallory Cusenbery, RossDrulisCusenbery Architecture, Inc. spoke about the columns seen from the Butterfield recess. The bays increase the vertical proportions of the look. They have included terra cotta windowsill enhancements and several tiers of landscaping showing a layered relationship of trees. As you interface with the building, there is always an articulation of layering. Symbolic creeks and pathways appear like a story, providing visual interest.

Council stepped down from the dais to take a closer look at the exhibits and to ask questions.

RossDrulisCusenbery Architecture, Inc. personnel explained views of plaza, trees, district attorney areas, stairs, bench seating and canopy areas.

Mayor Kennedy voiced his concerns about the corner of the building on Diana and Butterfield and stated it presents a massive building. He asked if they can give it another horizontal edge?

Mr. Cusenbery characterizes the strategy of why they did not go that direction. They wish to accentuate the public areas, provide visual connection from the front of the plaza to the back and show a contrast point. He further states that this would make the height of the building accentuated, and they really want a simple elegant frontage on Diana.

Council Member Carr asks if you can still see El Toro hill, and is satisfied that visitors will be able to do so.

Mr. Cusenbery states that the design plays up the scale of the portico, not allowing the building to get lost while providing a ‘silence’ on the Butterfield side. He discusses the fact that as you move through the building, your eye is brought up.

Mayor Kennedy expresses that he is still unhappy with the design of the corner.

Mr. Cusenbery mentions that the towers frame the sky, and as you move toward the building, your eye is drawn through the building.

Mayor Kennedy looks at the landscaping and states that the design shows that this is built like a fortress, but acknowledges that security is the #1 priority.

Mr. Cusenbery shows the alternating patterns of trees with the plantings set back, as well as the changing width of the sidewalk.

Mr. Cusenbery states that if you change the corner configuration, you may bring people to the corner which is not an entrance.

Mayor discussed simulated adobe which moved the discussion to the materials table.

Mr. Cusenbery then explained where materials will be used and stated they looked for a “village element” design.

Mayor expresses interest in using some warmer colors.

Jim Dumas commented on how the renderings looked different; could another horizontal line help the design?

Mr. Cusenbery thinks an overhang would increase the grandeur of the building and they tried to keep the shadow line low without the overhang, while up-lighting the ceiling in the lobby.

Mr. Cusenbery discussed the grand sweeping staircase, and quiet, silent framing. Mr. Drulis mentioned that you could see right through the framing and that transparency is important throughout so you can see activity in courthouse.

Mayor would like a warmer color than grey.

At the next meeting, Mr. Cusenbery will bring larger samples and take them outside as they show better in outside light. He discussed the three different color schemes, the introduction of a green wall, (vine covered wall), and how they will create a panel of alternating vines.

Mr. Cusenbery wishes to relay the feel of a mission and discussed how there would be more of a rolling texture like adobe done with a hand trowel.

Vice Chairperson Change asked about the color differentiation and whether or not Council has a choice of a, b or c? She would also like to add some warmth to the colors.

Mr. Cusenbery showed the seating bays and recesses and mentioned that too great a color contrast increases the size of the building. It is important to maintain the mission feel.

Mayor asked about whether or not they will use clear glass? They will use clear glass in order to enable you to see all around the building.

Larry asked about the surfaces on interior? They will be cherry wood with deep wood surrounding doors.

Mayor stated that three Council Members want a warmer color.

Mr. Drulis says they will use French grey with a red tone which will make it clear this isn't a commercial bldg.

Mayor Kennedy asked Council to reconvene back to the dais and asked for Council comments.

Vice Chairperson Chang asked about the height of the equipment bay? It will be tall enough to cover the equipment.

Council Member Sellers appreciates the architects incorporating the council comments; likes the proportions; would prefer softer colors but wouldn't want them to go overboard; likes the wall treatments, and likes the corners because they are not so overwhelming with the usage of glass.

Mayor Kennedy states that the 90 degree corner is too sharp and massive and wants either an overhang or the movement of the south wall so it opens the building up. He thanks everyone for coming down and sees a lot of ideas incorporated. He appreciates the architects keeping even the costly items and agrees with a warmer color concept than in option "A" pallet.

Council Member Tate appreciates that they brought the new pictures, however they do show the full landscaping which is not how we will start out. He states they are on the right track.

Council Member Carr thanks everyone for spending their time, and mentions that the drawings and models help, and that he is concerned about the viewpoint on Diana and Butterfield. The design addresses sizing and mass very well. He likes the corner because it draws your view up and shows the El Toro background. He thanks the group for keeping all the trees and walkways to downtown intact.

Vice Chairperson Chang is curious about what kind of trees will be planted. She mentions there is a lot of Crepe Myrtle behind the train tracks and that would be nice addition.

City Manager Ed Tewes and City Attorney Helene Leichter had no comments.

Business Assistance and Housing Director Toy mentioned that they didn't really go over the Justice Agency building, and that perhaps the County could provide perspectives on the building.

Mr. Drulis stated that he appreciates the use of Community and Cultural Center for their all day meeting.

SUMMARY: Council would like to see softer colors on the exterior of the buildings, and Mayor Kennedy maintained concerns about the corner of the building on Diana and Butterfield.

There being no further business, Chairperson Kennedy adjourned the workshop.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney Leichter announced the following closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 4

2.

EXISTING LITIGATION

Legal Authority: Government Code section 54956.9(a)
Case Name: City of Morgan Hill v. Arthur A. Biederman et al.
Case Number: Santa Clara County Superior Court Case No. CV 812944

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Case Name: Allivato v. City of Morgan Hill et al.
Case Number: Santa Clara County Superior CV 810111
Attendees: City Attorney, City Manager

4.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code 54957
Public Employee Performance Evaluation: City Attorney
Attendees: City Council, City Attorney

5.

EXISTING LITIGATION:

Case Title: Kennedy et al. v. Davis et al.
Case Name/No.: Santa Clara County Superior Court Case No. CV 803679
Attendees: City Manager, City Attorney, Special Counsel Matt Jacobs

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/ Chairperson Kennedy opened the Closed Session items to public comment. No comment being offered, the public comment was closed.

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to Closed Session at 6:02 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 7:00 p.m.

Council Member Chang was absent until 8:05 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/ Agency Counsel Leichter announced that the Council had voted 5-0 to enter into a settlement agreement with Mr. Biederman and to authorize the City Manager to execute documents for said settlement.

SILENT INVOCATION

Mayor/Chairperson Kennedy invited all to join in a silent invocation. He invited everyone to remember Rosalie Pena, in whose memory tonight's meeting would be adjourned.

PLEDGE OF ALLEGIANCE

Mayor/Chairperson Kennedy extended an invitation to lead the Pledge of Allegiance to Police Lieutenant Joe Sampson.

INTRODUCTIONS

Police Chief Galvin introduced the City's newest Police Lieutenant, Joseph G. Sampson, and welcomed him to the Morgan Hill Police Department.

PRESENTATIONS

Mayor Kennedy officially presented to Director of Finance Jack Dilles and his staff members Tina Reza, Lourdes Reroma, and Isabel Jones, the Comprehensive Annual Financial Report (CAFR) Award for 2002, given to honor the excellent work of the Finance Department.

CITY COUNCIL REPORT

Council Member Chang was absent at this time, and Mayor Kennedy deferred her report to the meeting of September 3, 2003.

CITY COUNCIL SUB-COMMITTEE REPORTS

None.

CITY MANAGER REPORT

City Manager Tewes reported that at the end of this week the monthly water samples will be taken and tested for perchlorate, with the results being presented to Council next Wednesday. He also reported that, as of August 2, there has been a perchlorate treatment plant on line at the Nordstrom well; and since that time there have been no problems in operations and the city's water has met all the state standards for water quality.

CITY ATTORNEY REPORT

City Attorney Leichter reported that the monthly litigation summary has had two cases resolved this month; the eminent domain action and the Allivato case, which was dismissed in favor of the City. These two have been dropped from the litigation summary. Tonight's action will enable another case to be dropped, reducing the total from 14 to 11 active cases.

OTHER REPORTS

None.

PUBLIC COMMENT

No public comment was offered. Mayor Kennedy closed the public comment.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Tate, the Council/Agency Board unanimously (4-0, with Chang absent) **Approved** Consent Calendar Items 2-4, 8-10, 13-15, 17-28, as follows:*

2. **JULY 2003 FINANCE & INVESTMENT REPORT**

Action: ***Accepted** and **Filed** Report.*

3. **SUBDIVISION APPLICATION SD-03-02: HALE-GARCIA**

Action: ***Took No Action**, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.*

4. **YEAR END REPORT ON 2002-2003 WORKPLAN**

Action: ***Accepted** Report.*

5. **GROUND LANDSCAPE MAINTENANCE SERVICES FOR THE COMMUNITY AND CULTURAL CENTER**

Council Member Sellers stated he had taken a class at the Morgan Hill Gavilan campus this summer and become aware that usage of the Community and Cultural Center (CCC) grounds are much heavier than originally anticipated attracting a lot more debris than planned. The areas he especially noted were the stage area, parking lot and the campus buildings. He asked how this impacts the ability to maintain the facility and if it might require an upgrade to the existing contract.

Director of Public Works Ashcraft responded that this is still a learning experience and they are pleased to have the high level of usage. The contract before the Council tonight does not address these issues,

but those issues are being covered by staff services which augment this contract. He asked the Council members to let him know of any other areas that they notice need additional maintenance.

Mayor Kennedy responded that he had noted a large brown patch on the south side of the building near the kitchen loading area.

Mr. Ashcraft made note of this information and said that he will look into it and report back to the Mayor.

Action: *On a motion by Council/Agency Member Sellers, seconded by Council/Agency member Carr, the Council/Agency Board unanimously (4-0, with Chang absent) **Approved** One Year Extension to the Agreement with Flora Terra Landscape Maintenance for Ground Landscape Services for the Community and Cultural Center, Gavilan College, and Morgan Hill Playhouse in the Amount of \$37,543.62; and **Authorized** the City Manager to Execute the Agreement on Behalf of the City.*

6. APPROVAL OF PROFESSIONAL SERVICES CONTRACT FOR THE BUTTERFIELD BOULEVARD NORTH CONNECTION FEASIBILITY STUDY

Council Member Tate expressed his concern that the PUC is requiring the city to perform an expensive alternative study just to prove to them that there is no other alternative than the one the city has already determined. Is the city trying to establish that there are alternatives? Wanted to know why the staff doesn't just go back to the PUC and ask them for permission without the study being done because it is too costly to perform the study.

Deputy Director of Public Works Bjarke responded that he did not believe the PUC would find that acceptable and had asked specifically if the city had analyzed alternatives. The staff has not given up the idea of the "at grade" crossing, and feels that this study will provide good information for future use because it accomplishes three things. First, it fills a square in the General Plan by performing a study of an east-west crossing at the north end of the city. Second, it will provide the kind of analysis the PUC said was lacking when the city submitted their initial request for a crossing of the tracks. And third, it lays the groundwork for a project study report, which is a detailed analysis looking at all the environmental issues, which absolutely requires alternatives to be explored. He also noted that this consultant specializes in traffic issues.

Mayor Kennedy stated that when he attended the meeting of the PUC and the Union Pacific Railroad representatives, they had specifically asked if alternatives had been studied. He stated that there are viable alternatives located further south which might eliminate the need for a crossing; such as the improvement of the crossing at Tennant Avenue. There may also be other alternatives that have not yet been determined at this early stage.

City Attorney Leichter reported that the PUC has stated they will not grant an application without the study based on grounds of economic infeasibility.

Council Member Carr asked if the “at grade” crossing at Madrone would allow the closing of the unsafe Tilton crossing.

Mr. Bjarke responded that this could be done, but the intent is more to establish an arterial connection between Butterfield and the Santa Teresa Corridor.

Action: *On a motion by Council/Agency Member Sellers, seconded by Council/Agency member Tate, the Council/Agency Board unanimously (4-0, with Chang absent) **Authorized** the City Manager, Subject to City Attorney Review and Approval, to Execute the City’s Standard Professional Services Agreement with Fehr and Peers to Study Alignment and Rail Crossing Alternatives for the Northerly Segment of Butterfield Boulevard for a Fee Not to Exceed \$66,824.*

7. VALUE ENGINEERING CHANGE ORDERS FOR THE AQUATICS CENTER

Council Member Tate asked how the staff is planning to cover the cost of these items in the future if they are removed now.

Project Manager Glenn Ritter responded that these items are being removed from the furnishings, but are not being eliminated, only postponed in order to avoid paying the contractor’s mark-up on the pricing. The city will purchase these items at a later date and will be able to save money. At about half way through the construction process there can be a review to see if some can be added back in at that time.

Mayor Kennedy stated that the items removed would be nice to have, but they had to be cut for now in order to meet the budget limitation of \$500,000. He noted they can be added back later.

Council Member Tate stated that he wants to see the operational cost for the facility covered up front; and is concerned that some of the items removed are pool covers and diving boards which would interfere with that goal.

Mr. Ritter stated that the supports for the boards are being placed in the concrete during construction, so they can be easily added at a later date; and he is being very aware of what needs to be purchased in order to keep the operation viable. The pool cover is for the shallow pool, and the odd shape makes it difficult and labor intensive to put on and off each day.

Council Member Sellers reported that he is interacting with the Aquatics Foundation, and several of these items can be purchased and donated through private funding. He would like to have that conversation take place now, rather than later, to see how many of these items they would be willing to purchase for the center.

Mayor Kennedy reported that the Aquatics Foundation will be contacting benefactors and seeking grant funding for these capital projects.

Action: *On a motion by Council/Agency Member Sellers, seconded by Council/Agency member Tate, the Council/Agency Board unanimously (4-0, with Chang absent) **Approved** Item 7.*

8. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2003 QUARTERLY REPORT #2**

Action: ***Accepted** and **Filed** the RDCS Second Quarter Report for 2003.*

9. **APPROVAL OF RESOLUTION PROVIDING COMPENSATION FOR CITY OF MORGAN HILL MANAGEMENT AND CONFIDENTIAL EMPLOYEES**

Action: ***Adopted** Management Resolution.*

10. **APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH POLICE OFFICERS ASSOCIATION (POA)**

Action: ***Approved** Three-Year Memorandum of Understanding with the POA.*

11. **IMPACT OF STATE BUDGET**

Council Member Tate asked if the \$1.47 million cap will be the same as in the past.

City Manager Tewes responded that the city expects to receive the \$1.47 million.

Action: *On a motion by Council/Agency Member Sellers, seconded by Council/Agency member Tate, the Council/Agency Board unanimously (4-0, with Chang absent) **Received** and **Filed** Item 11.*

12. **COUNCIL POLICY REGARDING PROCEDURES FOR PUBLIC HEARINGS**

Council Member Sellers expressed his appreciation to the staff for preparing this document, and encouraged the entire Council to adhere to this clearly stated policy in the future to avoid giving the public any possible impression that the Council might give preferential treatment in their deliberations.

Action: *On a motion by Council/Agency Member Sellers, seconded by Council/Agency member Carr, the Council/Agency Board unanimously (4-0, with Chang absent) **Adopted** City Council Policy and Procedure Regarding Public Hearing Procedures.*

13. **GRAND JURY RESPONSE – INFORMATION SYSTEMS DISASTER RECOVERY PLANNING**

Action: ***Authorized** the City Manager to Submit the Response to the Grand Jury.*

14. **RESPONSE TO SANTA CLARA COUNTY GRAND JURY REPORT CONCERNING “REVIEW OF AUDITS AND FINANCIAL REPORTS”**

Action: ***Directed** Staff to Provide the Response Described in the Staff Report to the 2002/2003 Grand Jury Concerning Their Review of Audits and Financial Reports*

15. RESPONSE TO SANTA CLARA COUNTY GRAND JURY REPORT “LISTING OF SPECIAL DISTRICTS, JOINT POWERS AGENCIES, DESIGNATED NON-PROFIT CORPORATIONS AND OTHER GOVERNMENTAL ENTITIES”

Action: 1) **Directed** Staff to Respond as Described in the Staff Report to the 2002/03 Grand Jury; and 2) **Directed** the Finance Director to Annually Include Narrative Listings Described in the Response Within the City’s Budget Document Beginning with the 2004/05 Budget.

16. ENDORISING POLICIES TO ENCOURAGE INVESTMENTS IN LOCAL TELECOMMUNICATIONS SERVICES TO KEEP JOBS IN CALIFORNIA

Council Member Tate stated he had no concept of what this resolution was attempting to accomplish, and felt that is seemed to lay a significant burden on these companies and could not see how it would be helpful.

Mayor Kennedy explained that it was brought by the Telecommunications Worker’s Union to try and obtain fairer treatment, through asking the State to ensure that the information is provided when requested.

Council Member Carr suggested that it may be that requiring the state to report capital investment and employment figures will make people more aware of what is going on with employment in the state.

Council Member Sellers noted that this is information that they have anyway, and it is just a matter of making is available to the PUC.

Mayor Kennedy stated that this is just an initial step, the language states that they “should” report, but does not demand this and starts the process in the direction that can be negotiated. Support of this effort is all that is being requested.

Greg. They would have anyway, but it is just a matter of making it available to the PUC? Kind of information a company has anyway, just needing to be reporting to the state.

Council Member Tate again expressed his objection to laying this burden on companies.

Action: On a motion by Council/Agency Member Sellers, seconded by Council/Agency member Carr, the Council/Agency Board unanimously (3-1, with Tate voting No, and Chang absent) **Adopted** Resolution Endorsing Policies.

17. ADOPT ORDINANCE NO. 1626, NEW SERIES

Action: **Waived** the Reading, and **Adopted** Ordinance No. 1626, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM COUNTY A-20 TO CITY R-1 (20,000) SINGLE-FAMILY LOW RESIDENTIAL FOR APPLICATION ZA-01-11: CLAYTON - MERLANO (APN 726-36-045 AND 726-37-006).

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18. **ADOPT ORDINANCE NO. 1627, NEW SERIES**
***Action:** Waived the Reading, and Adopted Ordinance No. 1627, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 2.01 ACRES, FROM CITY OF SAN JOSE R-1-1 AND COUNTY A-20 TO OPEN SPACE OS, APPLICATION ZA-03-05: MALAGUERRA-CITY OF MORGAN HILL (APNS 728-35-03 & 05.*
19. **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JULY 16, 2003**
20. **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JULY 28, 2003**
21. **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF AUGUST 1, 2003**
(8:30 a.m. session)
22. **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF AUGUST 1, 2003**
(9:00 a.m. session)
23. **PERFORMANCE MEASURE UPDATE – FISCAL YEAR 2002-2003**
***Action:** Received and Filed.*
24. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE P) MICRO PROJECT COMPETITION SECOND YEAR PHASING REQUESTS**
***Action:** Adopted Resolution Approving Second Year Phasing into Fiscal Year 2005-2006 for Projects in the 2002-2003 Micro Project Competition.*
25. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE P) OPEN MARKET COMPETITION SECOND YEAR PHASING REQUESTS**
***Action:** Adopted Resolution Approving Second Year Phasing into Fiscal Year 2005-2006 and Fiscal Year 2006-2007 for Projects in the 2002-2003 Open/Market Rate Competition.*

City Council Action and Redevelopment Agency Action

CONSENT CALENDAR:

26. **APPROVED JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JULY 16, 2003**
27. **APPROVED JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF JULY 23, 2003**

Redevelopment Agency Action

CONSENT CALENDAR:

28. FACADE IMPROVEMENT PROGRAM

Action: Approved a “Triple” Facade Improvement Program (FIP) Reimbursement for the Vacant Building at 17330 Monterey Road (Scoffone).

City Council Action

PUBLIC HEARINGS:

29. GENERAL PLAN AMENDMENT APPLICATION: GPA-02-08: MONTEREY-PINN BROTHERS (Continued from Meeting of July 17, 2003)

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing

No comments being offered, the public hearing was closed.

Action: On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (4-0, with Chang absent) **Continued** This Item to Meeting of September 17, 2003.

30. DEVELOPMENT AGREEMENT APPLICATION: DA-03-03: HALE-GARCIA

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing

No comments being offered, the public hearing was closed.

Action: On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (4-0, with Chang absent) **Waived** the Reading in Full of the Ordinance Approving Development Agreement DA-03-03: Hale-Garcia. (Ordinance No. 1628)

Action: On a motion by Council Member Tate, and seconded by Council Member Sellers, the City Council unanimously **Introduced** the Ordinance Approving Development Agreement by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-03-03 HALE-GARCIA (APN 764-09-27 and 764-09-026) by the following roll call vote:**

*AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.
(Ordinance NO. 1628)*

31. ZAA-98-20: SPRING AVENUE-WESTPOL PROPERTIES, LLC (MALONE).

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing

Mr. Allen Palmer stated that some of the homes built in this development are in excess of 4100 sq. ft., and the applicant was aware of the restrictions placed by the city, including the 10 percent grade line restriction. Now the applicant has requested an increase in the 10 percent line. The other problem is the location of the fences. Some on are the ditch, and some are already invading the 20 percent area by planting trees. He requested that this be rejected and the current homeowners be required to return the land to the original agreement with the city, requiring all fences to be built on the high side of the v-ditch to assure no development above the 20 percent line. Ask the developer to live by the agreements that were made.

Mr. Jack Young stated that from his front yard he has a view of what is being requested for amendment, and he feels that the developer is only interested in his profits. The original approved precise development plan is just that – precise – and all agreed to it. Further intrusions on the slope will be a detriment.

Ms. Mary Paulsen stated that the developer is determined to make tens of thousands in profits. Requested that the Council not consider the developer's profit margin but consider the tens of thousands of years the earth took to create this geological beauty.

Mr. Stewart Witter stated that developer knew what the easement line should be and built houses larger than originally agreed. He asked the city to reject this proposal based on an agreement with the community and the builder, and based on solid business sense. When there is an agreement, it should stick. The developer says he can't sell his houses, but will come back asking for more when he still can't sell them. Please keep the hill in its current state.

Mr. Larry Toliver, a homeowner in this development who purchased his home last March, stated that he appreciated what everyone was saying but he bought his home with the expectation that he would be able to beautify it outside the fence line as long as he did not build a structure. Inside the fence, he understood he could do what he wanted. The amount he has spent makes him distraught over what the others have said this evening. He asked the Council how he can get justice for what he bought.

Mayor Kennedy asked him if he had received any information on restrictions or CCR's when he made his purchase.

Mr. Toliver said that he understood that outside the fence area no structures could be built, but perhaps in the future there could be some development. He did not think it was restricted all the way down to the v-ditch, and he had landscaping done. He did receive CCR's, which he read, but maybe he did not

fully understand them. He stated that perhaps he should have gotten himself a lawyer, but he had trusted the realtor.

Ms. Robin Church, also a homeowner, echoed what Mr. Toliver had said. Asked if they could leave the fences where they are and landscape up to the fences.

Mayor Kennedy asked if the fences were installed by the developer.

Ms. Church responded that the developer had installed the fence above the v-ditch, and they were installed when the property was purchased.

No further comments being offered, Mayor Kennedy closed the public hearing.

Mayor Kennedy asked Mr. Bischoff if he knew about the CCR's and if the residents had been informed, and if this is an open space easement granted to the public. He also asked if the installation of the fences in the wrong area shouldn't have been discovered on final inspection.

Mr. Bischoff stated that the development agreement states that the slope above the fence line will be left in the natural state, and that the fences should have been caught on final inspection, but perhaps this was missed, but this would require further investigation by staff to determine.

Council Member Tate asked what Code Enforcement does when someone violates an open space. He asked that the code issues be investigated by staff.

Mr. Bischoff responded that Code Enforcement is response reactive, and would not have investigated without a complaint.

Council Member Carr asked if anyone was present to represent the developer. He asked if all the parcels have been developed.

Mr. Bischoff responded that he thought they would be present, but they were not. If not all the parcels, then most have been developed.

In regards to the code enforcement issue, Mr. Bischoff stated that if the Council takes no action, he would send staff to investigate the violations and ask the developer and property owners to come into compliance with the code.

Council Member Carr asked what will happen if the code violations were in place when the property was purchased.

City Attorney Leichter responded that the property owners would have rights against the developer, although the easement should have been flagged in the title report. The city would have rights against the property owner, but not against the developer. This is the city's only option for code enforcement.

Mayor Kennedy raised the question about new housing in this development.

Council Member Sellers stated that the only issue before the Council this evening is whether or not the Council concurs with the Planning Commission and approves the resolution of denial. The developer made an agreement, and should have stood by it. It is not the city's responsibility when the developer chooses to go beyond the agreement. The developer should not have gone further up the hillside, and that is the only issue before the Council this evening. There are other administrative items that the staff will pursue. He sympathizes with the homeowners, but it appears they were not given adequate information, which is an administrative situation.

City Attorney Leichter stated that she will meet with Mr. Bischoff and go over the easement to see if it needs to be extended.

Mayor Kennedy stated he wanted to make the comment that the city does not have the resources to be on site as each project is developed.

Council Member Carr agreed with the motion and the Mayor's comments. He thinks it should be noted that a developer cannot make an agreement and then set it aside. If there are code enforcement issues, then the staff needs to find a way to go after the developer and the lots that are not yet developed to make things right on the agreement that was signed. He does not want to give the impression that development agreements will not be enforced. He stated that it sounded like the homeowners were misled, and they should not be held responsible for something they did not sign.

City Attorney Leichter stated that she would investigate the development agreement with Mr. Bischoff to see if there are remedies against the developer.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (4-0, with Chang absent) **Adopted** the Resolution Denying Request to Amend the Precise Development Plan.*

32. ADOPT ORDINANCE REGARDING RESTRICTING DISKING ON VACANT LAND

City Attorney Leichter presented the staff report.

Mayor Kennedy opened the public hearing

No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member and seconded by Council Member, the City Council unanimously (5-0) **Waived** the First and Second Reading in Full of the Ordinance Enacting Chapter 8.80 (Disking Restrictions), of Title 8 of the Municipal Code. (ORD. No. 1629)*

Action: *On a motion by Council Member and seconded by Council Member, the City Council unanimously **Introduced** the Ordinance Enacting Chapter 8.80 (Disking Restrictions), of Title 8 of the Municipal Code by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ENACTING CHAPTER 8.80 (Disking Restrictions) OF TITLE 8 (HEALTH AND SAFETY) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING RESTRICTIONS ON DISKING VACANT LAND** by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None. (ORD. No. 1629)*

33. **APPLICATION ZA-03-06: ZONING TEXT AMENDMENT/MOBILE HOME PARK CONVERSIONS**

34. **ADOPT ORDINANCE REGARDING MOBILE HOME PARK CONVERSIONS TO RESIDENT OWNERSHIP OR TO ANY OTHER USE**

City Attorney Leichter requested that Items 33 and 34 be heard jointly because they are adjunct items. She then presented the staff reports regarding mobile home park conversions.

Mayor Kennedy opened the public hearings on Items 33 and 34 concurrently.

Mr. Mark Moore, Chairman of the Mobile Home Rent Commission, spoke on behalf of the commission, and gave a history of how these ordinances have needed to be developed for about 10 years. He thanked this Council for being willing to consider passage of these ordinances to handle this potential situation in Morgan Hill before problems arise. The ordinances will establish a basis of rules for the changing of a mobile home park to another use, and will provide protections for the residents. He stated that the Mobile Home Rent Commission recommends approval of these ordinances.

No other comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the First and Second Reading in Full of the Ordinance Amending Title 18 of the Municipal Code regarding Mobilehome Park Conversions. (Ord. No. 1630, N.S.)*

Action: *On a motion by Council Member and seconded by Council Member, the City Council unanimously **Introduced** the Ordinance Amending Title 18 of the Municipal Code regarding Mobilehome Park Conversions by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 18.30.010, 18.30.020, 18.30.050, AND 18.30.110 OF CHAPTER 18.30 (PUD PLANNED UNIT DEVELOPMENT DISTRICT) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING AMENDMENT FOR CONSISTENCY WITH MOBILE HOME CONVERSION***

ORDINANCE by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None. (Ordinance No. 1630, New Series)

Action: On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Waived** the First and Second Reading in Full of the Ordinance Adopting Text Amendment regarding Mobilehome Park Conversions. (Ordinance No. 1631, New Series)

Action: On a motion by Council Member and seconded by Council Member, the City Council unanimously **Introduced** the Ordinance Adopting Text Amendment regarding Mobilehome Park Conversions by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADOPTING CHAPTER 17.38 (MOBILE HOME PARK CONVERSIONS TO RESIDENT OWNERSHIP OR TO ANY OTHER USE) OF TITLE 17 (SUBDIVISIONS) OF THE MORGAN HILL MUNICIPAL CODE** by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None. (Ordinance No. 1631, New Series)

City Council Action

OTHER BUSINESS:

35. COMMUNITY INDOOR RECREATION CENTER APPROVAL OF CONCEPTUAL SITE DESIGN

Deputy Director of Public Works Struve presented the staff report.

Mayor Kennedy opened the public comment. No comments being offered, public comment was closed.

Mayor Kennedy asked if there is a standard being used for determining how much area of the building is to be allocated to office space.

Mr. Struve stated that this would be an issue studied closely during the schematic design phase.

Council Member Sellers stated that office space uses will be designed to give staff real basic administrative space to get the work done, but the majority of the space will be set aside for programming needs.

Mayor Kennedy stated it is important to come up with a standard for office space for all the buildings that are being built by the city. He also thanked Subcommittee members Chang and Sellers for their work in getting the site design work completed.

Mr. Struve reported that the current site design plan supports re-design of the current community park road into a more circuitous route into the park to help reduce speeds of travel through the park. He

noted that there will be a drop-off area near the building on both sides of the parking area, and the skate park has been placed near the future Llagas Creek trail for ease of access from the trail. The buildings of the site have been placed well out of the flood plain, and a retention pond added to hold rain runoff.

Mayor Kennedy asked if the retention pond would still be needed once the flood issue is resolved.

Mr. Struve stated it will remain to meet the LEEDS requirement for pollution prevention and to hold storm runoff.

Mayor Kennedy asked why the pond could not be placed on the other side of the eastern access road so that the access road and the Llagas Trail would be closer together and the buildings could be expanded in the future.

Staff from Noll and Tam Architects explained that their site design allows for expansion of the building on both sides, and moving the pond would not be necessary for that purpose. They also explained that the placement of the access road was chosen to move it further west from Monterey Road for safety reasons.

Mr. Struve continued his report, stating that the Youth Advisory Committee and Senior Advisory Committee had both reviewed the site design. YAC had a concern about the comparison of space allotted to seniors vs. youths, but then recognized that a lot of the active spaces are available to youth usages. The SAC was particularly interested in having ample parking for seniors and the disabled near the buildings because many seniors have serious mobility problems. He intends to make sure that the drop off areas will allow senior bus to come to the front door and that parking will also be close to the door. The Seniors also wanted dedicated kitchen space, for the nutrition program, but are willing to settle for a dedicated and lockable cabinet, refrigerator, and utensils.

The site plan was also reviewed by Police, Fire, Building and Planning Departments. Requests were made for a well-lighted skate park and adding a drop off area to the skate park. Police supported the change to the access roads to slow down traffic flow. Planning will need to verify adequacy of the number of parking spaces.

The Police Department expressed concern about the vegetation rows on the drawing, and requested that they either be removed or not allowed to grow higher than 3 feet. They also requested that the thru traffic be separated from the drop off area for safety reasons, that speed bumps be added to control speeds, a bike path be added along the access road to the skate park, and that security cameras be placed at the entrances to keep an eye on children waiting for pickup.

The Planning Department asked for adequate parking spaces to meet code requirements, to verify that all buildings and accessories meet required setbacks, that the drive aisles be 30 feet in width, there is adequate lighting of skate park without negative impact on surrounding neighbors, and that the retention pond be shallow enough that on-site fencing would not be required.

The Parks and Recreation Commission ask for re-programming of gym, and asked if there could be 3 cross courts and 1 full court to allow greater versatility of the space through the use of dividers. They

also requested a strong pedestrian connection between the buildings and the skate park, and wanted to save the trees on the existing road without leaving a barrier between the park and the center complex. They asked for an active snack and drink counter be included and that the building be designed for as much cross utilization as possible. The PRC approved the recommendations to the Council with a 7-0 vote.

Mayor Kennedy asked if the separate, lockable area for the senior nutrition program is acceptable to the County Health Department and the Senior Nutrition Program Manager. Mr. Struve responded that it is acceptable.

Council Member Sellers reported that the main comments he has received from the senior community are related to the size of the senior areas, and he wanted to make sure that their area has not been reduced.

Recreation and Community Services Manager Spier responded that the senior area has not been reduced in size, and had remained stable from the beginning of the planning process.

Council Member Chang asked that they make sure that the new facility is large enough to accommodate the needs of the senior programs, including the nutrition program for a sit down meal.

Mayor Kennedy asked if there had been a desire expressed by the senior community for a separate facility for the nutrition program.

Council Members Chang and Sellers stated that they had not heard that, but asked Mr. Spier to respond if she had received such a request.

Ms. Spier responded that the nutrition center is viewed as being for a more frail population and the Senior Center for a more active senior population. The SAC finds the shared facility acceptable, and the negotiation of shared space is still under discussion with them at this time. If the nutrition program remains at the Friendly Inn, there will need to be improvements made to that facilities kitchen; as well as the problem that there will need to be provision made within the next 10 years to have a facility that will seat at least 100.

Council Member Chang stated that there is concern in the community that the Recreation Center will not be built for some time, and that the Friendly Inn is in need of improvements. She requested that discussion of improving the current site be placed on a future agenda.

Council Member Sellers responded that the staff is looking into making mitigating improvements to keep the current facility adequate until the new facility is available. That decision will not affect the decision before the Council this evening because the multipurpose, senior rooms and kitchen facility will need to be included in the new center regardless.

Council Member Carr asked if the Senior Nutrition Program were not using the facility from 8:00 – 2:30, then would that space be available for other uses during those hours. Also would the 2000 sq. ft.

area be adequate to accommodate the senior nutrition program and to seat 100 persons. He also remarked that he liked the idea of the 3 cross courts because it would allow better use of space. He asked where the kitchen was located. He also wanted to know how this project is being coordinated with the master planning currently underway for Community Park.

Mr. Struve responded that the kitchen is located near the multi-purpose space adjacent to the senior area, with access from the outside; and if the nutrition program was not at this facility then those hours would be available for other uses.

He explained that the Master Planning of Community Park has been started again, and that the trails will be integrated into this site so that there will be good access from the skate park to the community park, with the landscaping blended between the two areas. They are also considering the possibility of placement of heritage oaks to tie the two sites together.

Council Member Carr asked about the moving the tennis courts closer to this facility to encourage use of the recreation center by the tennis community.

Mr. Struve stated that it could be done, and expanding the tennis courts is being discussed. They have also been looking at the possibility of incorporating the current corporation yard and bus yard sites, and turning the existing public works buildings into a tennis clubhouse. They are still looking for community input to the discussion of the tennis courts.

Mayor Kennedy stated that he liked both of those ideas, but wanted to know if the building could be moved further north so it would be closer to the tennis courts.

Mr. Struve reported that the subcommittee had decided that the visual impact was better with the building being closer to Edmundson rather than the parking lot nearer to Edmundson. This also helps to mitigate the need for pedestrians to have to cross in front of traffic.

Council Member Sellers requested the other Council members to provide comments as input to the Subcommittee.

Council Member Tate stated that he really likes the multi-generational aspect of the facility and was devastated when he learned that the computer room was being removed, because he believes that would provide a real opportunity for the interplay of the generations. He also stated that he had thought the schedule was improved, but now does not see that and can't understand why it is taking so long to build this facility. He would like to see the computer room returned to the design.

Mayor Kennedy stated that overall he likes the layout, but would like to have a bike lane on the access road on the east side of the property. He would prefer to have the pond moved further to west so the road on the east side could be combined with the creek side trail. The expansion of the gym is an issue of cost and size and he wanted to know if there were other reasons for doing it, apart from the suggestion of the Parks and Recreation Commission.

Mr. Struve stated that the reasons for the expansion suggestion was to be able to have as many multiple uses as possible. Public Works has not had time to examine the costs, but would need to do so if we are to move forward in that direction.

Mr. Chuck David of Noll & Tam reported that to make the suggested changes in the gym would require the size to be increased by roughly 1/3, with those costs added to the budget.

Council Member Chang stated that she is concerned about the tight budget and does not want to change the scope of the job very much because there are no extra funds.

Council Member Sellers reminded the Council that the skate park is a future project, not in the scope of this presentation, and the land is only a set aside for future development. He feels that there are a number of items that don't make sense now or that the city can't afford right now, but will be considered for inclusion in future expansions. Expanding the tennis courts would fall into this category. He also stated that the reason the design places the aquatic center near Edmundson was to create a dramatic view from Edmundson and to gain the south facing solar energy benefits.

Mayor Kennedy stated he was struck by the amount of time it takes for the contract documents and bid process, and felt that it looked excessive.

Mr. Struve explained that the project has a low contingency and the time schedule was an effort to match that risk. A more aggressive schedule would not be in line with the contingency. They are currently on schedule.

Sr. Project Manager Dumas explained that because the bid process falls during the time of year that there are winter holidays, this necessitated a longer time period to accomplish this task.

Mayor Kennedy stated that he does not believe that a slower schedule is less costly, and would like the staff to find a shorter, but still optimum, schedule without incurring additional costs.

City Manager Tewes reported that the issue of the schedule had been previously debated by the Council and the recommendation from the Subcommittee was that the adopted schedule was the appropriate one within the fiscal and risk management parameters.

Ms. Merideth Marschak, of Noll & Tam, addressed the time schedule, stating that this is a large and complex project to document for bidding and to review. She stated that the current schedule is an ambitious one for a project of this size.

Mr. David, of Noll & Tam, stated that the site work is on a large acreage and it is an ambitious project where the site work and the building are tied together. He said that 8 months is not an overly generous schedule for a project of this size. Because they need to make sure they hit the fiscal target, he pleaded for the 8 months.

Mayor Kennedy asked if they were to request 4 months be deleted from the schedule, where it might be taken out.

Noll & Tam staff responded that the problem is in taking bids in December, and moving stuff back would require the bids to be received by November 1, which would take about a month out of the City's portion. They do not see an easy way to remove 4 months, since this building has an aquatics portion, they did not recommend trying to eliminate more than one month. There is a lot of work to be done and there is the necessity to meet the bid target, which makes for a large amount of detail to oversee.

Council Member Sellers stated that we need to keep to the schedule that we have established. The Subcommittee has been reviewing this issue and will continue to push for opportunities to expedite the project. Based on the experience of the community center project, they want to avoid having similar problems arise during construction.

Council Member Tate commented that now, at the beginning, is the time to take advantage of the opportunity to set the tone that this a multi-generational facility, and he would rather lose the gym than lose the multi-generational aspect of the facility.

Mayor Kennedy agreed with Council Member Tate that we need the computer room and asked staff to study the standards set by other facilities for office space to see if there are some changes that can be made which would allow keeping the computer room in the facility. He also stated that he feels we cannot add to the gym without exceeding the budget.

Mr. David stated that there may be ways to wire a wall in the senior area and in the multi-purpose room to have computer stations available as needed rather than making a separate space for them. This would not be a budget buster.

Council Member Sellers noted that this presentation is only a footprint, and there are opportunities to find a way to accommodate the computer uses.

Council Member Carr stated his agreement about maintaining the multi-generational aspect of this facility, though not specific to the computer room. He wants staff to think about programming that will bring generations together rather than just specifying spaces to accomplish this. He stated that he is a little concerned about the aquatics portion of this project because it seems to be much more a leisure pool focus rather than a recreation and exercise focus, which he understood was the intent of this facility. He does not want to shift from recreation to leisure, though he understands that it might be done for cost recovery purposes. He wants to be sure that we think about this center in conjunction with uses of all the city's other facilities instead of in a vacuum unto itself so they are not in competition with each other for a limited number of participants. He would like to see the nutrition program settled before development of the project advances much further because it will require the dedication of a significant portion of the facility. If it is not going to be moved here, then the city should move forward in upgrading the Friendly Inn. He likes the design.

Council Member Chang asked if there had been a decision made that she was not aware of on who will be operating this facility.

City Manager Tewes responded that the Council had adopted a motion about a year ago that the city would be responsible for operations and would find a way to involve the YMCA by contract. A series of discussions have been held, and a subcommittee has been meeting on this matter, and intends to make a recommendation on how to proceed within the next couple of weeks.

Mayor Kennedy commented that there is a subcommittee working on the issue of the Friendly Inn and the meal program, and that we need to move forward on that as well as this program, without overlapping efforts.

Council Member Chang inquired if the YMCA will be involved in the operations, why we are not asking their opinion on the design.

City Manager Tewes stated that the operators will begin to participate in the discussions at the design development phase.

Council Member Sellers stated that discussions need to continue about how these projects integrate with each other so the public can clearly see that these facilities are designed to be complementary and not to duplicate each other; and there are good reasons for having each of them for their own unique uses. Morgan Hill is underdeveloped with recreation facilities and needs these facilities that the City is developing.

Mayor Kennedy noted that the aquatics center pools are intended for outdoor seasonal usage for recreation and competition. The recreation center's indoor pool will be a warm water pool focused more on use by seniors, YMCA programs, swim lessons for toddlers and the type of use which can be used year round.

Council Member Carr stated that the vision laid out by the Mayor is exactly what he thought was being developed, but he is concerned when he reads the report that the 3,500 sq ft water feature is for interactive play, not for swim lessons and aerobics classes. He understands that this may be for cost recovery purposes, but is concerned that the seniors may not want to use the facility for aerobics while children are making noise and playing on the slide.

Ms. Spier stated that the lazy river feature is not just for recreation, but is a key component of the senior's exercise programs, and that there will be three lanes for lap swimming for exercise.

Council Member Sellers asked if the YMCA could be formally invited to participate with the subcommittee, because he felt their input would be invaluable in the process even if something was not worked out between them and the city at a later time.

Mr. John Remi, YMCA Executive Director for Morgan Hill stepped forward to address the Council on this issue. He stated that the comments about defining the uses for the facility made by Council Member

Carr are critical. Many people prefer indoor pools rather than out door pools for lap swimming. Aqua fitness classes are extremely popular and the demand for this keeps growing. He stated that there are ways to accommodate all the needs through scheduling, but the primary functions need to be defined in order to prevent competition between the indoor and outdoor pools. He stated that the YMCA is willing to help in any way they can to lend their expertise to the City in the design element to help the city avoid mistakes during the design phase.

City Manager Tewes reminded the Council that there is one more important member of the design team to be brought on board when the Aquatics Director is hired at the end of the calendar year.

Council Member Chang asked if the aquatics portion of the center will affect the ability for cost recovery for the overall project.

Council Member Sellers responded that there is a direct correlation.

Council Member Carr asked if the recommendation to approve the Sports Management Group agreement for Business and Economic Analysis was an agreement in addition to what has been previously approved; and if these services are from this point forward in the design.

Mr. Struve responded in the affirmative.

Action: *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) **Approved** the Subcommittee Recommendation for Programming and Conceptual Site Design, incorporating the comments given by the Council this evening in the motion.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) **Approved** Sports Management Group Consultant Services Agreement for Business and Economic Analysis.*

36. URBAN LIMIT LINE (GREENBELT) STUDY STATUS REPORT

(This item was heard out of order, following the hearing on Item 37.)

Action: *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** extension of the meeting beyond 11:00 p.m.*

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy commented that this is a well balanced committee and they are making good progress. Since this is a completely new concept they are developing, they first had to determine exactly what they were doing. They have begun their work on the north side of the city and are working their way around, leaving the more difficult portions in the southeast quadrant for the end of the process.

Action: *Information only. No Council Action Taken.*

Redevelopment Agency Action

OTHER BUSINESS:

37. MORGAN HILL PLAZA REPOSITIONING STRATEGY

(This item was heard out of order, prior to the hearing on Item 36.)

Business Assistance and Housing Manager Maskell presented the staff report.

Conley Consulting Group staff Denise Conley and Linda Braz made a PowerPoint presentation to the Council.

Denise Conley addressed Council to present their proposal for MH plaza along with Linda Braz. They are looking for opportunities to revitalize the plaza and reported that one anchor store is currently vacant, and Albertsons is considering vacating in the future. There are 4 out of 30 store fronts vacant at this time, so there is a very high rate of vacancy. They believe that the plaza does not serve the needs of the rest of the demographics of Morgan Hill. There is also poor layout and lack of visibility from Monterey, where the view is blocked by a gas station. Most anchor tenants would object to being blocked from view in this manner. Owners do not appear to have motivation to perform. Tenants seem more interested in the lower rents than location. There is underutilization of this key site across from new community center. The center has the potential to get worse, and could have an impact on the efforts of revitalization of the downtown area.

Ms. Linda Braz spoke about marketing opportunities, stated that this can be successful neighborhood center, but it needs to be as representational as the Community and Cultural Center is. The population would like a more upscale shopping center in Morgan Hill that serves the needs of more of the population so they don't have to go out of town.

Denise Conley reported that most anchor tenants want a freeway site and Albertsons is looking to move to a freeway site. Therefore, this site will continue to decline.

Linda Braz stated that it may be possible to develop a portion of the site rather than all of it which would work with the cost constraints. The existing center could be reconfigured and a portion redeveloped. The apartment building owner is willing to relocate, and could be moved to the back of the site, placing it adjacent to existing residential areas.

The consultants reported they did look at attracting another anchor tenant and found that it would be a very difficult thing to do without the city investing a significant amount of money to attract them. The other option is for the city to create its own market hall anchor tenant. In this scenario, a few merchants gather together under one roof to create a multi-vendor concept to create an attractive anchor tenant comprised of various local vendors such as a green grocer, wine merchant, etc.. People are currently not patronizing this center because it does not offer what they want. They feel that this market fair concept might attract people. Trader Joes or Whole Foods are moving very slowly on expansion, and are not in

the market to come to Morgan Hill at this time because they feel there is not enough population to support them.

The other possibility is a public use such as a library and city hall. This would make a grand representation at the entrance of Morgan Hill.

The last option considered is facade improvement of the existing owners, which would not change the nature of the center or the patron attraction, but would make the center look better.

Acquiring the center will be expensive and could be in the range of \$7-11 million dollars. The city could also acquire and clean up only a key portion of the site which could benefit the whole site. This would cost about \$3-1/2 to 4-1/2 million dollars. All acquisition options are in the multi-million dollar range. A simple face lift is in the \$500,000 dollar range. The property owners are not willing to sell, and that could be a problem. This would make it hard to do any wholesale acquisition for the site without invoking eminent domain. The consultants stated this will probably not work on a friendly basis. If the city does not want to use eminent domain, they should not consider taking the whole site down and starting over.

The consultants asked for council feedback before proceeding further.

Vice Chairperson Chang stated she is intrigued by the idea of a market hall and how it would work. She asked if Trader Joes needs the population to be successful, wouldn't the market hall need the same to make it work?

The consultants stated that this concept has worked in a neighbourhood in Oakland, without the 40,000 population requirement. In common with the successful Oakland site, the Morgan Hill site has its location at a key intersection on the route home for many people. This would not be an easy option, but it is an alternative to consider if the city is unable to attract something like Whole Foods or Trader Joes. They further suggested that the city should be willing to hire someone to implement the project.

The concept of the market hall in Oakland was implemented by one person who has a prepared food business, who found the right person to bring in a wine shop, someone to bring in a produce shop, a bread person, coffee person and a cheese person. The person got the market hall going to support her business. The consultants suggested there may be someone in the local community that could bring it together like that in Morgan Hill.

Agency member Sellers states that this is a different business model than Trader Joes. Tiny shops would not need to have the volume that a larger store would. He stated that this is an intriguing idea because of the local resources that could be brought into something like that.

Agency member Carr stated that this would be a good location for restaurants. He asked if this type of use would require significant changes.

The consultants agreed that this would be a good site for restaurant uses. If you had to get rid of one thing, it would be the gas station because of blocked visibility.

Mayor Kennedy asked if there the potential to go ahead if 3-4 of the owners agree to make improvements.

The consultants expressed that the owners are not motivated to change, liking the way things are and wanting similar uses to come into the center.

Vice Chairperson Chang inquired what the price tag would be for the proposed projects.

The consultants stated before they can continue with strategy development they need direction from the Council as to whether they want to acquire the entire site or a portion of the site. The only prices determined were for acquisition of the full site, not the buildings, at a cost of \$7-11 million dollars. The building acquisition costs would be above that.

Agency member Sellers stated that the Council should just accept the report this evening. He stated that this project is not feasible now because of lack of funding. He would like to have a subcommittee look at this more specifically to try and hone the options and come back with recommendations. Perhaps someone on the Economic Development Subcommittee should participate. Mr. Sellers would rather pursue his questions in that context rather than pursuing the questions tonight.

Mayor Kennedy thinks this brings to light the need to review the current redevelopment agency and decide what we want to do in the future with the RDA. It is time to start looking at a new extension or revision to the RDA as a whole. This looks like a long term problem that needs fixing, and because of the length of time it would take to get the extended RDA in place, we need to start soon. Other sights in need of redevelopment are also outside of the RDA, and some sights located in the current RDA are finished and need to be taken out. It is time to start the process, and to bring these strategies back in separate actions including whether there should be a subcommittee established and who would be assigned to serve on it. He stated the need to agendize the question of what the City will be doing with the RDA strategy for future council action.

Agency member Tate agreed with Mayor Kennedy. He does not feel that there is a source funds to do this improvement at any level. There is a need to identify a different source of funds, such as through an extension of the RDA. He doesn't see any way to refer this to the Economic Development committee or any other committee because there are no dollars to address it.

Mayor Kennedy stated that perhaps this can be discussed as part of a future workshop. This project and report has served to reveal a problem that needs to be addressed. He will work with Ed on an upcoming agenda to bring issues back in bite size pieces.

Agency member Carr stated he is not ready to give this up. He thinks there are some things that can be done at this time. This site is already in our Economic Development Strategy to have action taken, and he is not willing to put off improvements to be made to this shopping area. He thinks it should go

forward in the Economic Development Subcommittee. He states we can't leave an entryway to downtown out of our downtown planning, even if we only do the minimum of removing the gas station on the corner. This is the definition of redevelopment to him, and a perfect example of what can be done within the RDA. Mr. Carr stated conversation should continue on some of these strategies. He stated that the 11 million dollar strategy would not be the way to go, but would recommend we try to take some of the key components and find a way to make them work. This is an investment that brings a return and he thinks there are some things that can be done within the recommendation that would improve the downtown and this center, rather than wait until the RDA is expanded. He believes council needs to continue the conversation on this issue.

Vice Chair Chang does not think the piecemeal approach will work. She stated that she studies shopping centers a lot and this approach does not make her comfortable. She feels \$7-11 million dollars for a shopping center is not that bad a cost. If the city truly wants to redevelop this area, she thinks the Council should buy the site and develop either a private or a public use that will do some good or it's not worth spending the money. She stated that perhaps Mayor Kennedy and Agency member Tate's thoughts on expanding the RDA is one way to go. She wants to know exactly how much money we are looking at and agrees with Agency member Carr that we should not give up on this project. She suggested that council go a little further and figure out the economics before making a decision.

Mayor Kennedy stated that this item needs to be brought back to the Council at a later date. He does not want to make a decision at this late hour and recommended bringing it back in a workshop or some way that council can spend the appropriate time this issue deserves. He understands what Agency member Carr is saying, and feels that all council would like to be involved in the decision rather than just sending it to a committee.

Agency member Sellers moved to go re-agendize this discussion for a more informal workshop to work out the details. Agency Member Tate seconded the motion.

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Agency Board unanimously (5-0) **Directed** the City Manager to set up a workshop on the Morgan Hill Plaza Repositioning Strategy.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting in memory of Ms. Rosalie Pena at 11:15 P.M.

MINUTES RECORDED AND PREPARED BY:

LISA LEWIS, OFFICE ASSISTANT II

MOIRA MALONE, DEPUTY CITY CLERK